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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/552,105	04/19/2000	Peter H. Schmidt	1331-US	3061

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TERADYNE, INC
321 HARRISON AVE
BOSTON, MA 02118

EXAMINER

NGUYEN, PHUOC H

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 04/04/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

PR4

Office Action Summary

Application No.

09/552,105

Applicant(s)

SCHMIDT ET AL.

Examiner

Phuoc H. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,4,7-9,14-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Stephanou U.S. Patent 6,513,013 in view of Liu U.S. Patent 6,079,020.
3. Referring to claims 1,5, and 20, Stephanou reference discloses receiving, with a diagnostic unit (Expert Reference Server), a communication from a subscriber experiencing a problem with a network (col. 3, lines 30-40); however, Stephanou fails to disclose determining configuration information of said subscriber from said communication; and forwarding said configuration information to a selected network element, and forwarding said configuration information electronically.

Liu reference discloses determining configuration information of said subscriber from said communication (col. 2, lines 42-51); and forwarding said configuration information to a selected network element, and forwarding said configuration information electronically (col. 6, lines 25-36; and col. 10, lines 46 through col. 11, lines 9).

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to incorporate Liu's teaching into Stephanou's method to determine the configuration information and forward it to a network element, because by using the

configuration information to check to make sure that the communication between the nodes belong to the same network.

4. Referring to claims 4,13, Stephanou reference discloses receiving, with a diagnostic unit, a communication from a subscriber experiencing a problem with a network; however, Stephanou fails to disclose selected network element comprises a service provider associated with at least a portion of the network, and step of determining includes the step of authenticating a password supplied by said subscriber for an Internet Service Provider (ISP) Net.

Liu reference discloses selected network element comprises a service provider associated with at least a portion of the network (col. 7, lines 3-7), and step of determining includes the step of authenticating a password supplied by said subscriber for an Internet Service Provider (ISP) Net (col. 6, lines 59 through col. 7, lines 7).

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to incorporate Liu's teaching into Stephanou's method for a subscriber to access to the network by the ISP, because by login to the ISP the user would be able to report that the user encounter that there is an error occur from the network.

5. Referring to claims 7-9, Stephanou reference discloses step of determining configuration information includes obtaining an identification of said subscriber, and step of obtaining an identification of said subscriber includes determining a username of said subscriber, and step of obtaining an identification of said subscriber includes obtaining at least one of authentication information associated with said username, a phone number of said subscriber and a time stamp (col. 4, lines 5-11).

6. Referring to claim 10, Stephanou reference discloses step of determining includes the step of emulating with said diagnostic unit at least one of login services to said subscriber, authentication services to said subscriber, e-mail services to said subscriber and the Internet to said subscriber (col. 5, lines 55-61).

7. Referring to claim 11, Stephanou reference discloses data sent by said subscriber; and the format of data sent by said subscriber (col. 3, lines 19-48).

8. Referring to claim 12, Stephanou reference discloses step of determining includes the step of negotiating a protocol between said subscriber and said diagnostic unit, said protocol selected from the group consisting of modem training, network control protocols, authentication protocols, compression protocols and upper layer protocols (Fig. 4, and col. 7, lines 43-48).

9. Referring to claim 14, Stephanou reference discloses sending an e-mail to a diagnostic unit from said subscriber (col. 3, lines 34-40); and receiving an e-mail from said diagnostic unit by said subscriber (col. 4, lines 15-21).

10. Referring to claim 15, Stephanou reference discloses the step of identifying said subscriber by said identification information within a trouble ticketing system of said service provider (Fig. 6, and 9; col. 7, lines 64-67).

11. Referring to claim 16, Stephanou reference discloses the steps of prioritizing said subscriber by said identification information within said trouble ticketing system of said service provider (Fig. 9; and col. 7, lines 57 through col. 8, lines 2).

12. Claims 2,3,6, and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Stephanou and Liu in view of Kandasamy et al. U.S. Patent 5,513,314.

13. Referring to claims 2,3,6, and 18, Stephanou reference discloses receiving, with a diagnostic unit (Expert Reference Server), a communication from a subscriber experiencing a problem with a network; however, Stephanou fails to disclose a step of receiving comprises utilizing at least one Fault Tolerant Protocol stack to allow communication between said subscriber and said diagnostic unit for diagnosis purposes; and at least one Fault Tolerant Protocol stack permits communication with said subscriber when said subscriber is misconfigured.

Kandasamy reference disclose a utilizing at least one Fault Tolerant Protocol stack to allow communication between nodes, and at least one Fault Tolerant Protocol stack permits communication with said subscriber when said subscriber is misconfigured (col. 3, lines 5-10; col. 13, lines 12-22).

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to incorporate Kandasamy's teaching into Liu's and Stephanou's method to use a Fault Tolerant Protocol when the subscriber is misconfigured, because by using the Fault Tolerant Protocol to detect and handle the failure events consistent with recovery from normal error condition.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for

patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15. Claims 17, and 19 rejected under 35 U.S.C. 102(e) as being anticipated by Stephanou.

16. Referring to claim 17, Stephanou reference discloses providing a diagnostic unit (Expert Referral Server) in communication with a network (Fig. 1; and col. 3, lines 28-40); receiving, with said diagnostic unit, a communication from a subscriber unable to communicate with a desired network element (col. 3, lines 30-40); and allowing communications between said subscriber and said diagnostic unit, said subscriber communicating with said desired network element through said diagnostic unit (Fig. 1; col. 3, lines 28-59).

17. Referring to claim 19, Stephanou reference discloses a processor (Expert Referral Server) in communication with a subscriber and with a network (col. 3, lines 28-40); and storage associated with said processor, said storage capable of storing instructions for causing said processor to receive data from said subscriber and to determine configuration information of said subscriber (col. 3, lines 41-59).

Allowable Subject Matter

18. Claim 21 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

19. The following is a statement of reasons for the indication of allowable subject matter:

Prior art fails to disclose instruction further include instructions for accepting data from said subscriber in a source protocol inconsistent with a network element protocol of a selected network element; establishing a communication link with the subscriber and sending an

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indication of the data received from the subscriber to the selected network element in a protocol consistent with the network element protocol.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Collin et al. U.S. Patent 6,330,597

Frailong et al. U.S. Patent 6,496,858

Kuwabara U.S. Patent 6,065,136

Cochran et al. U.S. Patent 6,529,938

Burgess et al. U.S. Patent 5,758,071

Bahlmann U.S. Patent 6,393,478

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 703-305-5315. The examiner can normally be reached on Mon -Thu (7AM-4:30PM) and off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703-308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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Phuoc H. Nguyen
Examiner
Art Unit 2143

April 1, 2003



DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100